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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

August 26, 1993

OUR FILE NO.
1031-102-63

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

RE: MM Docket No. 93-183
RM-8276
Sun Valley, ID

Dear Mr. Caton:

Transmitted herewith, on behalf of Native Broadcasters of Idaho, are an original and four copies of its **COMMENTS AND COUNTER PROPOSAL IN RESPONSE TO NOTICE OF PROPOSED RULE-MAKING** in the above-referenced proceeding.

Should further information be required, kindly communicate directly with this office.

Very truly yours,


Lee W. Shubert

Enclosures (5)

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Before The

Federal Communications Commission

Washington, D.C. 20554

AUG 26 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In The Matter Of)
 Amendment of Section 73.202(b),)
 Table of Allotments)
 FM Broadcast Stations.)

MM Docket No. 93-183
 RM-8276

(Sun Valley, Idaho))

TO: Chief, Allocations Branch

**Comments and Counter Proposal
 in Response to
 Notice of Proposed Rule Making**

Native Broadcasters of Idaho ("NBI"), by its attorneys and pursuant to the above-captioned Notice of Proposed Rule Making, DA 93-732, released July 8, 1993 ("NPRM"), hereby submits its Comments and Counter Proposal to the Petition for Rulemaking filed by Sun Valley Fine Arts Broadcasting ("SVFAB"). In support thereof, the following is stated:

1. SVFAB requests the allotment of Channel 298C to the community of Sun Valley, Idaho. Allotment of Channel 298C to Sun Valley will provide the Community with its third local FM service.¹ Sun Valley has a population of 545 persons.² SVFAB pledged to apply for the channel should it be allotted to Sun Valley.³

2. NBI hereby proposes an alternative allocation for Channel 298C. Specifically, NBI request the allocation of Channel 298C to

¹ See NPRM at ¶ 1.

² Rand McNally Road Atlas, Index to United States Counties, Cities and Towns, 1990 edition.

³ NPRM at ¶ 1.

Shelley, Idaho, in lieu of Sun Valley, Idaho. Shelley, Idaho, is a community in the eastern portion of the state with a population of 3,300.⁴ The allocation of Channel 298A to Shelley would provide the community its first local transmission service. NBI intends to apply for the Channel if allotted to Shelley. Allocation of Channel 298A to Shelley complies with the Commission's minimum distance separation requirements without a site restriction.⁵

3. To determine which proposal best serves the public interest under Section 307(b) of the Communications Act, the "Commission weighs the public interest benefits from FM allotment proposal in light of its FM allotment priorities. The FM priorities are 1) first aural service, 2) second aural service, 3) first local service, 4) other public interest matters. Co-equal weight is given to priorities 2 and 3. *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88, 92 (1992)."⁶

4. The allocation of Channel 298A to Shelley will provide the community with its first local transmission service. Sun Valley has two existing services, KECH-FM and KSKI-FM.⁷ In addition, the Shelley proposal will serve a community with six times larger population -- 3,300 persons in Shelley to 545 persons in Sun Valley. Thus, the counter proposal advanced by NBI better serves the priorities established by

⁴ Rand McNally Road Atlas, Index to United States Counties, Cities and Towns, 1990 edition.

⁵ See, Exhibit 1, Spacing Study.

⁶ *FM Channel Assignments (Eastonton and Sand Springs, Georgia and Anniston and Lineville, Alabama)*, 70 RR 2d 182, 187 (1991).

⁷ Non-commercial station KWRV(FM), licensed to Sun Valley, is not yet on the air. {need to check this fact}

Section 307(b) for the "fair, efficient and equitable distribution of radio service."⁸

WHEREFORE, the premises considered, Native Broadcasters of Idaho respectfully requests the Commission deny the Petition for Rule Making filed by Sun Valley Fine Arts Broadcasting to amend the Table of Allotments to allot Channel 298A to Sun Valley, Idaho, and that it grant the proposed amendment of the Table of Allotments to allot Channel 298A to Shelley, Idaho.

Respectfully submitted,

**NATIVE BROADCASTERS OF
IDAHO**

By: 

Lee W. Shubert
Dawn M. Sciarrino

Its Attorneys

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August 26, 1993

⁸ 47 U.S.C. § 307(b).

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Washington, D.C.

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08/12/93

FM SEPARATION STUDY

Job Title : Proposed Ch. 298C, Shelley, ID

Separation Buffer 50 km

FCC DB Date : 06/29/93

Channel 298C (107.5 MHz)

Coordinates : 43-32-33 111-53-04

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
KMTN LIC	Jackson WY	BLH850617KC	245C1 96.9	50. 323.0	43-27-42 110-48-10	95.2	91.97 50.97	41 CLEAR
K296EA LIC	Pocatello ID	BLFT891220TH	296D 107.1	.051 DA 693.0	42-50-56 112-21-43	206.8	86.29 .00	0 TRANS
Translator for KSIF, Idaho Falls, ID.								
K296EG CP	Jackson WY	BPFT910927TC	296D 107.1	.002 29.0	43-29-10 110-45-43	93.6	90.99 .00	0 TRANS
Translator for KZJH, Jackson, WY								
K296AQ LIC	Soda Springs, etc. ID	BLFT145	296D 107.1	.0	42-37-48 111-41-00	170.8	102.70 .00	0 TRANS
TRANSLATOR FOR KSOP-FM, SALT LAKE CITY, UT.								
K280DV APP	Burley ID	BPFT920317TF	297D 107.3	.133 DA 1750.0	42-20-45 113-36-15	227.0	193.33 .00	0 TRANS
Translator for KRIC, Rexburg, ID-								
From channel 280DV-HAAT exceeds maximum value allowed for Max HAAT								
PADD PRM	Sun Valley ID	RM8276	298C 107.5	.0	43-41-48 114-21-00	275.8	199.76 -90.24	290 SHORT
K224CB APP	Pocatello ID	BMPFT930524TE	299D 107.7	.010 796.0	42-48-31 112-29-09	211.1	95.08 .00	0 TRANS
Translator for KUER, Salt Lake City, UT-								
From Channel 224-Vertical Polarization Only								

** End of separation study for channel 298C **

CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Haley, Bader & Potts, hereby certify that I have on this 26th day of August, 1993, sent copies of the foregoing **"COMMENTS AND COUNTER PROPOSAL IN RESPONSE TO NOTICE OF PROPOSED RULE MAKING"**, by first-class, United States mail, postage prepaid, to the following:

John F. Garziglia, Esq.
Pepper & Corazzini
1776 K Street, NW, Suite 200
Washington, DC 20006
(Attorney to Sun Valley Fine Arts Broadcasting)

*Andrew J. Rhodes, Chief
Allocations Branch, Room 8322
Federal Communications Commission
2025 M Street, NW
Washington, DC 20554


Barbara L. Rascon

*Hand Delivery